

A Regular Meeting of the Zoning Board of Appeals of the Town of Lancaster, Erie County, New York, was held at the Lancaster Town Hall, 21 Central Avenue, Lancaster, New York, on the 10th day of January at 8:00 P.M., and there were

PRESENT:            MARK AQUINO., MEMBER  
                         RICHARD QUINN, MEMBER  
                         JAMES PERRY, MEMBER  
                         LAWRENCE PIGNATARO, MEMBER  
                         ARLIE SCHWAN, MEMBER  
                         ROBERT THILL, MEMBER  
                         JEFFREY LEHRBACH, CHAIRMAN

ABSENT:            NONE

ALSO PRESENT:    JOHANNA M. COLEMAN, TOWN CLERK  
                         JOHN DUDZIAK, TOWN ATTORNEY  
                         GEORGE PEASE, ASSISTANT BUILDING INSPECTOR

The Affidavits of Publication and Posting of this Public Hearing are on file and a copy of the Legal Notice has been posted.

**PETITION OF L.M. BAHAS LLC**

THE 1st CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of L.M. Bahas, LLC, 999 Rein Road, Cheektowaga, New York 14225 for one [1] variance for the purpose of permitting a six foot [6'] fence to remain as located in a required open space area on premises owned by the petitioner at 5428 Genesee Street, Lancaster, New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 35C. of the Code of the Town of Lancaster. The petitioner has erected a six foot [6'] fence in the required front yard.

Chapter 50, Zoning, Section 35C. of the Code of the Town of Lancaster limits the height of a fence or wall extending into a front yard to three feet [3'] in height. The petitioner, therefore, requests a three foot [3'] fence height variance.

**The Clerk presented and entered into evidence the following items:**

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

Copy of a letter notifying the Erie County Department of Environment and Planning of the time and place of this public hearing.

**PERSONS ADDRESSING THE BOARD**

Paul Gladwin, petitioner  
Representative of L.M. Bahas  
5428 Genesee Street  
Lancaster, New York 14086

Proponent

**IN THE MATTER OF THE PETITION OF L.M. BAHAS LLC**

THE FOLLOWING RESOLUTION WAS OFFERED  
BY MR. LEHRBACH, WHO MOVED ITS  
ADOPTION, SECONDED BY MR. THILL  
TO WIT:

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of L.M. Bahas LLC and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 10th day of January 2008, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That there are a wide variety of uses in close proximity to this site and it was the owner's attempt to mitigate the visual impact to the neighboring property owners by installing a privacy fence.

That the benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue, other than the area variance relief sought.

That the requested area variance relief is substantial.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicant if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

That such fence will not unduly shut out light or air to adjoining properties.

That presently there is a six [6] foot high chain link fence one thousand [1,000] feet in length. This fence is a pre-existing non-conforming use.

**NOW, THEREFORE, BE IT  
RESOLVED** that based upon these findings, the relief sought be and is hereby  
**GRANTED.**

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. AQUINO	VOTED YES
MR. PERRY	VOTED YES
MR. PIGNATARO	VOTED YES
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED YES

The resolution granting the variance was thereupon **ADOPTED.**

January 10, 2008

**PETITION OF JACK FALSONE:**

THE 2ND CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Jack Falsone, 17 Ashwood Court, Lancaster, New York 14086 for one [1] variance for the purpose of erecting a six [6] foot high fence in a required open space area on premises owned by Rosanna Berardi, 17 Ashwood Court, Lancaster, New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 35C. of the Code of the Town of Lancaster. The premises upon which this variance is sought is a corner lot fronting on Ashwood Drive with an exterior side yard [considered a front yard equivalent] fronting on Apple Blossom Boulevard. The petitioner proposes to erect a six [6] foot high fence within the required open space area of the exterior side yard fronting on Apple Blossom Boulevard.

Chapter 50, Zoning, Section 35C. of the Code of the Town of Lancaster limits the height of a fence or wall extending into a front yard or an exterior side yard [considered a front yard equivalent] to three [3] feet in height. The petitioner, therefore, requests a three [3] foot fence height variance.

**The Clerk presented and entered into evidence the following items:**

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

**PERSONS ADDRESSING THE BOARD**

Jack Falsone, petitioner 17 Ashwood Court Lancaster, New York 14086	Proponent
Carl Ziemba 46 Summerfield Drive Lancaster, New York 14086	Opponent
Jeff Macholz 2 Appleblossom Boulevard Lancaster, New York 14086	Opponent
Brenda Macholz 2 Appleblossom Boulevard Lancaster, New York 14086	Opponent
Jim Nowak 12 Ashwood Court Lancaster, New York 14086	Opponent
Louise Ziemba 46 Summerfield Drive Lancaster, New York 14086	Opponent
Rosanna Berardi, property owner 17 Ashwood Court Lancaster, New York 14086	Proponent

**IN THE MATTER OF THE PETITION OF JACK FALSONE**

THE FOLLOWING RESOLUTION WAS OFFERED  
BY MR. LEHRBACH, WHO MOVED ITS  
ADOPTION, SECONDED BY MR. PERRY  
TO WIT:

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Jack Falsone and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 10th day of January 2008, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has requested that the petitioner speak with his neighbors to reach a mutually acceptable compromise with regard to the location of the proposed fence.

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster, with the concurrence of the petitioner, agrees that an adjournment of this hearing is in the best interest of both the nearby residents as well as that of the petitioner.

**NOW, THEREFORE, BE IT  
RESOLVED** that this hearing be adjourned to allow for further testimony and evidence to be presented.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. AQUINO	VOTED YES
MR. PERRY	VOTED YES
MR. PIGNATARO	VOTED YES
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED YES

The resolution adjourning this hearing was thereupon **ADOPTED**.

January 10, 2008

ON MOTION DULY MADE, SECONDED AND CARRIED, the meeting was adjourned at 9:35 P.M.

Signed \_\_\_\_\_  
Johanna M. Coleman, Town Clerk and  
Clerk, Zoning Board of Appeals  
Dated: January 10, 2008

